

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

RHONDA McQUEEN,)
)
Plaintiff,)
)
vs.) Case No. 4:16CV00421ACL
)
CAROLYN W. COLVIN,)
Acting Commissioner of Social Security)
)
)
Defendant.)

MEMORANDUM AND ORDER

This is an action under 42 U.S.C. § 405(g) for judicial review of Defendant's final decision denying Plaintiff's application for benefits under the Social Security Act. Currently pending is Defendant's Motion to Reverse and Remand. (Doc.18.) Plaintiff has filed a Response. (Doc. 19.)

In her motion, Defendant requests that the Court reverse the decision of the administrative law judge ("ALJ"), and remand this action to the Commissioner pursuant to sentence four of 42 U.S.C. § 405(g). Defendant states that, after careful review of the above-captioned case, Defendant has determined that remand is appropriate for further consideration of Plaintiff's claim. Upon receipt of the Court's remand order, the Appeals Council of the Social Security Administration will remand this case to the ALJ. Defendant requests remand to further evaluate the evidence of record, including the records and opinion of treating physician Daniel Herleth, M.D. (Tr. 838-87, 911-12, 975-78).

In her Response, Plaintiff states that she has no objection to Defendant's Motion to Remand. Plaintiff requests that the case be remanded with instructions that the claimant be given the opportunity to submit new evidence and be provided the opportunity for a new hearing. (Doc.

19.)

Sentence four of 42 U.S.C. § 405(g) states that “[t]he court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing.” In order for the Court to properly remand a case to the Commissioner pursuant to sentence four, the Court must enter an order either affirming, modifying, or reversing the Commissioner’s decision. *See Brown v. Barnhart*, 282 F.3d 580, 581 (8th Cir. 2002).

The undersigned believes that it is appropriate to reverse and remand this case in order to permit the Commissioner to take further action as requested in her motion. Upon remand, Plaintiff should be given the opportunity to for a new hearing, and should be permitted to submit new evidence.

Accordingly,

IT IS HEREBY ORDERED that Defendant’s Motion to Reverse and Remand (Doc. 18) is **GRANTED**.

IT IS FURTHER ORDERED that the decision of the Commissioner be **reversed** and this cause be **remanded** to the Commissioner for further proceedings pursuant to sentence four of 42 U.S.C. § 405(g) for those reasons set forth in this Memorandum and Order. A separate written Judgment will be entered in favor of the Plaintiff and against the Defendant.



ABBIE CRITES-LEONI
UNITED STATES MAGISTRATE JUDGE

Dated this 21st day of October, 2016.